



BOARD OF POLICE COMMISSIONERS

Minutes of the Regular Board of Police Commissioners Meeting Thursday, January 2, 2003

The regular meeting of the Detroit Board of Police Commissioners was held on Thursday, January 2, 2003 at 3:00 p.m., at Police Headquarters, 1300 Beaubien - Rm. 328-A, Detroit, MI 48226.

ATTENDANCE

Board Members Present

Megan P. Norris
Willie E. Hampton **(ABS)**
Nathan Head
Edgar L. Vann, Jr.
Arthur Blackwell, II

Department Personnel Present

Chief Jerry A. Oliver, Sr.
AC Walter E. Shoulders
DC Gary Brown
DC Ronald Haddad
Civ. DC Pamela Evans
3DC Tara Dunlop
Insp. Willie McClure
Insp. Morris Wells
Lt. Dwayne Blackmon
Sgt. Kenneth Smith
Sgt. Debbie Jackson
Sgt. Bennett
Sgt. Cobbs
Atty. Nancy Ninowski

Board Staff Present

Pamoline J. McDonald, Exec. Director
Denise R. Hooks, Atty./Supv. Investigator
Lori Waddles, Chief Investigator
E. Lynise Bryant-Weekes, Personnel Director **(ABS)**

OTHERS PRESENT

Atty. Thomas Zulch
Ms. Walters
Patrice Woodard
WWJ 950

RECORDERS

Jerome Adams
Kellie Williams

1. CALL TO ORDER

Chairperson Norris called the regular meeting of the Detroit Board of Police Commissioners to order at 3:22 p.m.

2. APPROVAL OF MINUTES

MOTION: Commissioner Norris made the motion to approve the Minutes of Monday, December 23, 2002.

SECOND: Commissioner Vann seconded the motion.

VOTE: All in attendance voted in the affirmative.

3. REPORT FROM THE CHAIR

None

4. SECRETARY REPORT - EXEC. DIR. MCDONALD

Suspension

On January 2, 2003, Police Officer Donald Covington, badge 423, assigned to the Second Precinct was suspended without pay, by Asst. Chief of Police Walter E. Shoulders.

The Internal Affairs Unit received information regarding the arrest of off-duty P.O. Covington, for "Operating Under the Influence of Intoxicating Liquor."

According to the report, on December 20, 2002, at approximately 2:20 a.m., officers of the Twelfth Precinct received a police run to Wyoming and Fullerton on an "Injury Accident." Officer Covington stated the driver of the other vehicle, Mr. Edward Berry, backed out of the driveway and he (Officer Covington) was unable to stop in time, striking the passenger side of the vehicle. When the supervisor at the scene asked Officer Covington if he had been drinking, Officer Covington replied, "I had one yak to drink." Mr. Berry informed the officers that he had just finished drinking a beer.

Officer Covington and Mr. Berry were both given a Preliminary Breath Test at the scene. Officer Covington blew a .219 and Mr. Berry blew a .237. Both were subsequently arrested and conveyed to the Twelfth Precinct.

Once at the Twelfth Precinct, both were administered a Breathalyzer Alcohol Content test with a result of .19.

Officer Covington was released on a personal bond. An arraignment date is scheduled for January 3, 2003, at 36th District Court.

Based on the above circumstances, it is recommended that Officer Covington be charged with, but not limited to the following violation of the Detroit Police Department Rules and Regulations:

CHARGE: CONDUCT UNBECOMING AN OFFICER; CONTRARY TO THE LAW ENFORCEMENT CODE OF ETHICS, THIS BEING IN VIOLATION OF GENERAL ORDER 72-17, SECTION K, SUBSECTION 65.

Exec. Dir. McDonald stated that there were representatives on behalf of Officer Covington who wished to address the Board regarding the suspension without pay.

DPOA Atty. Thomas Zulch referenced prior arguments that they have made in regards to suspensions without pay on prior dates. He stated that he was not here to argue any of the facts. He stated he has no further information other than what has been presented today. He stated that the Department should not suspend

without pay if there are not sufficient grounds presented to the Board to dismiss someone assuming that this would even be proved out. To suspend without pay without an impartial investigation and a fair hearing essentially is to punish the officer. Something that should not occur until after the hearing. He stated that based on the information presented to the Board, he feels there is no grounds to suspend the officer at this time without pay.

Comm. Vann asked what is the percentage of alcohol in the system according to the alcohol content test? Would you give the Board that grid so that we are...

DPOA Atty. Thomas Zulch answered an impaired driver would be .08 or .09, and then an actual per se or drunk driver is .1 and above. So his test would be a test .19.

Comm. Vann stated right. So this was far beyond.....

DPOA Atty. Thomas Zulch stated nearly double the

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DPOA Atty. Thomas Zulch stated nearly double.

Comm. Vann stated what we would consider a drunk driver to be? And you are asking us to do what?

DPOA Atty. Thomas Zulch stated to not suspend the officer without pay at this point.

Comm.Vann stated on what grounds other than doing your job?

DPOA Atty. Thomas Zulch stated that there are rules and regulations according to the Department. Alcoholism is looked at as a sickness. We don't even know if this officer is an alcoholic or whether this was just a one-time incident.

Comm.Vann stated that the question is not whether or not he is an alcoholic.

DPOA Atty. Thomas Zulch stated that is what the department should do is possibly send him to evaluation or personnel affairs to determine that.

Comm. Vann stated that might be wonderful but the charge is not that you are an alcoholic. The charge is that you were found at this particular level with alcohol in your system. We are not doctors. We are not trying to figure out whether or not a

person has a disease. We are just taking the facts here that would be implacable to any other driver on the street.

DPOA Atty. Thomas Zulch stated that my point to you is that any other driver including the one here involved, Mr. Berry is probably not going to lose his paycheck and his benefits because he was arrested for drunk driving.

Comm. Vann stated but here we are talking about a police officer who is sworn by oath and by a code of ethics to actually uphold and to arrest a person like myself caught this way.

DPOA Atty. Thomas Zulch stated okay. It would be my position and I would be very strong in arguing this that even based on the facts before you, he is not going to lose his job whether it takes going to an arbitrator or not.

Comm. Norris stated she wanted to ask a question about.....

DPOA Atty. Thomas Zulch stated "to me that is the bottom line." If there are not facts to fire this man, then he should be entitled to a full investigation and have a hearing where everything is presented.

Comm. Norris stated to Atty. Zulch that she sort of agrees with him, although we have danced around the definition. The standard that we seem to have been using is that if it is something that you can get fired for, then you can get suspended without pay for it. If it is something that does not rise to that level maybe you don't get suspended without pay. The Chief, at least early on in his tenure, was taking the position that he would fire people for this; and the DPOA argued that you should not or you can't, etc. But the Chief would say, I would. We are not further into the process. Do you know what disciplines we have had? Trial Boards or Chief's Hearings or anything on these kinds of offenses so that we know what kinds of disciplines are being meted out by the Department. Not what happens later in arbitration and so forth but what disciplines the department is asking for in these?

DPOA Atty. Thomas Zulch stated that he could point out two cases that he is familiar with. He stated that he believed came down in December.

Comm. Norris stated that he did not have to name the names.

DPOA Atty. Thomas Zulch stated that there was one officer with 27 years experience, no discipline and a drunk driving charge. He was dismissed at a Chief's Hearing.

Comm. Norris stated okay. So I assume you are appealing that....

DPOA Atty. Thomas Zulch stated yes. The second case was a newer officer such as relatively similar amount of time as Officer Covington. Who in fact, had two drunk driving charges, separate incidents, and he was given a 90 day suspension.

Comm. Norris asked at a Chief's Hearing or at a ...?

DPOA Atty. Thomas Zulch stated yes, at a Chief's Hearing.

Comm. Norris stated okay. I know the call was an injury accident. Do you know if in fact if there was an injury?

DPOA Atty. Thomas Zulch stated I have no

Comm. Norris stated you don't know? Okay.

DPOA Atty. Thomas Zulch stated I have no information in regards to that.

Comm. Blackwell asked was this gentleman off-duty?

DPOA Atty. Thomas Zulch stated that was his assumption. He could not say for sure but based on what is written here, I would say off-duty.

Exec. Dir. McDonald stated that based on the information we have here, the officer was off-duty.

Comm. Blackwell stated that Atty. Zulch referenced a couple of other cases and asked if he knew of any other disciplinaries in the officer's file?

DPOA Atty. Thomas Zulch answered in regards to who?

Comm. Norris answered this one.

Comm. Blackwell stated the officer we are talking about.

DPOA Atty. Thomas stated that Officer Covington he believes does not have any prior discipline history that he is aware of. He is new to the filing system at his office, so he assumed there is no prior discipline.

Comm. Head stated that we are forgetting one thing here, this was an accident, we don't know for certain if it was an injury accident or not. The real problem here is of course is that this is a police officer who is sworn to uphold the law, at this point is

twice over the legal limit for drinking for regular drivers. Should there be special consideration given to him because he is a police officer?

DPOA Atty. Thomas Zulch stated no. I think the department should discipline him but that occurs after a hearing not prior to a hearing. This is what you are being requested to do is to discipline him prior to having a hearing.

Comm. Norris stated I have one other question.

Comm. Blackwell stated that the only reason he is concerned is that right before the election, they found out that the President of the United States had been arrested for DUI (driving while intoxicated). I know that a police officer is an important position but not quite at the same par as the President of the United States. He stated that he is for very strict discipline. If someone is on duty, that is a cause for termination. There is no prior discipline and this is somebody in their own car and off-duty. It is a serious offense but what we are talking about here is suspension without pay. It could lead to termination or we don't know that. He recalled what we talked about in a particular Chief's Hearing, there was a suspension and then there was a termination correct?

DPOA Atty. Thomas Zulch stated that was two situations that I am familiar with off the top of my head. He does not usually do Chief Hearings, but I think most of the cases have gone through Chief's Hearings to begin the discipline process.

Comm. Norris stated that the union's position in a lot of these cases, as Atty. Ninowski tells us every time we are talking about duty status, we are not talking about disciplines, so the union's position is if you think that the discipline should be suspend him then let it go through the process and let it get to that. The test for suspension without pay is whether the offense is so egregious that the person can't do their job. The Chief has taken the position in a number of cases that it is so egregious because in fact he is going to recommend that these individuals get fired. He is saying that if you do this stuff, I don't think you should serve and I will recommend that you get fired. So he is saying that it does meet that test, and the union argues that it does not, and depending on what the conduct is; we fall one way or the other.

Comm. Norris asked Atty. Zulch when charged with an offense like this, forget the fact that he is a police officer for a moment; do you know what ramifications it has for his driver's license? Can he drive right now?

DPOA Atty. Thomas Zulch answered he can drive at this point, yes.

Comm. Norris stated at some point in the proceedings he may not be able to drive? We don't know that yet?

DPOA Atty. Thomas Zulch stated it would depend if he has no priors as far as anything criminal. I am looking at the criminal aspect.

Comm. Norris stated right.

DPOA Atty. Thomas Zulch stated he is assuming that the officer does not have any priors. If he would be found guilty of an impaired, then he would be in line for a restricted license. So he would not lose his driver's license.

Comm. Norris stated but the restricted license she does know a little about. That is usually when you can drive to and from work. But if the job is driving all over town at high speeds, you might not get that restricted license.

DPOA Atty. Thomas Zulch stated that his guess would be is that they would still grant it. It is not something that the court does any longer, it is all done through the Secretary of State. So that would be up the Secretary of State.

Comm. Blackwell addressed to Comm. Norris saying that we as Board members have agreed that we want a higher standard for our officers, we are also saying that behavior that one exhibits off duty is equally important or is very important as it relates as to what an officer does. Have we established that?

Comm. Norris answered no, not as a group. I think that once.....

Comm. Blackwell stated that his only issue was in terms of a lot of these suspensions without pay prior to this particular Chief have not been suspended due to the agreement we have. I am probably in favor of 95-98% of them. He stated that his only issue was trying to find out what has actually been a ticket. He states that he knows we have just passed the manual so now officers are expected to understand and abide by what is in the manual. Is there specific information on the conduct of an off duty officer. Clearly, there is no prohibition against drinking.

Comm. Norris stated that is right. Although I take that back. I do not have all of the details with me. As you know, our officers have their guns with them at all times.

Comm. Blackwell stated yes I know of no rule where an officer cannot drink.

Comm. Norris stated that there is now a state set limit on what level of intoxication you can have and operate a firearm.

Comm. Blackwell stated that most people before they get drunk have a set limit. In other words, they say I am going to stop here and that is what happens. In this new direction, has this been articulated for off duty officers. Clearly, off duty officers can go inside a casino and gamble, which if they did on duty they would be fired. So, there are a lot of things you can do off duty that you cannot do on duty. The issue is that obviously drinking sometimes has more of a medical issue to it than it does unethical or criminal element to it. As we lay the law down, have we made it very clear that this is whatHe was asking the Chief has this been said through the manual, a set of rules, or an Executive Order, etc. He would like to know that because to him off duty is a little different than on duty. But at the same time, he understands that the Chief is trying to set a direction in total. As one member, he is trying to get a sense of where we are, what has been the rule laid down. Is it written anywhere and what is it so that he knows?

Comm. Norris stated that the Chief has suggested we withdraw this and he bring it back with further information. Because there are policies that we have about off-duty drinking issues because of the operation of the firearm. She imagined that the Board can get specifics about that and also the injury if any.....

Comm. Blackwell stated that we talked to the Chief about this. The rule changes are going to be a living document. If there is something that the Chief believes is that important, bring it to the Board and let us adopt it as a rule. Then we can get away from the gray areas like what did he do or how drunk was he? Was he at the limit? Then we can make it very clear that you cannot do this if you stop and test this amount, that is automatic dismissal. He would rather adopt that with full notice to the membership than be just like the President sitting on everything that you do. He appreciates the Chief doing that; it will give us a little more time to look at it.

Comm. Norris states that is what we will do then.

Comm. Norris addressed to Exec. Dir. McDonald. For the record let it reflect that this is being withdrawn and she anticipates that it will come back.

Exec. Dir. McDonald states okay.

Comm. Norris states to Atty. Nancy Ninowski that since we are withdrawing it, we are not going to let you talk right now, okay?

Exec. Dir. McDonald states that we will ensure that the record reflects the withdrawal of that suspension without pay at this time.

CITIZEN COMPLAINTS RECEIVED

	<u>2002</u>		<u>2001</u>
During the past week:	21	During the past week:	8
Year to Date:	1,113	Year to Date:	922
Comm. Blackwell asked Exec. Dir. McDonald to repeat the figures.			

Exec. Dir. McDonald repeated the figures and stated there is like 200 more.

Comm. Blackwell stated it is up by 15-20%.

Exec. Dir. McDonald stated yes.

Comm. Blackwell asked is that good from the standpoint that we are in a position that we were filling more complaints or is it that bad that more things are happening.

Exec. Dir. McDonald stated that she thinks that this has been a year that we received a lot of media attention. The police department and our complaints, we start getting a lot of complaints. She thinks that the police department has been in the media quite a bit this year. She thinks that is part of it and that our outreach efforts are helping. There maybe some other contributing factors to that and we are trying to look and see.

Comm. Norris stated that she thinks the answer is both. As you may recall from the Department of Justice letters, one of the issues is the ease in filing a complaint. How easy is it to get through our system and an increase in complaints suggests it is not so hard or that we are getting better in making that accessible to the public. But then at some point, as one of the members of the community said at one of our recent meetings, even when the numbers go up, you have to look at, is it because stuff happened.

Comm. Blackwell asked if 100% of these complaints are to us or is this combined?

Exec. Dir. McDonald answered all complaints received are forwarded to our office. We have a clearing house for complaints for the precincts.

Comm. Blackwell asked if some come directly and some come through the precincts and departments?

Exec. Dir. McDonald answered yes, some come from the precincts and from other places.

Comm. Blackwell stated that this is a combination of all complaints.

Exec. Dir. McDonald answered that is correct.

Comm. Blackwell asked against police officers?

Exec. Dir. McDonald answered that is correct.

Comm. Blackwell answered okay.

Comm. Norris stated that is right.

Comm. Vann stated that he did not know if that was accurate. Would that be all of the.....

Comm. Norris stated it would not include criminal complaints because that would go to Internal Affairs.

Exec. Dir. McDonald stated that is correct. I am sorry, no it does not include criminal complaints.

Comm. Norris stated so it would include complaints of all of the things that we have at the Office of the Chief Investigator that we have the authority to investigate. It does not include allegations of criminal misconduct.

DC Gary Brown stated that he has a Quality Assurance team that works out of the Professional Accountability Bureau. It is a group of citizens that are calling and going to precincts, and making complaints. We realized six months ago that we were not taking all of the complaints we should have; because we have addressed that issue, He believes that is one of the other reasons why the complaints are going up. We are taking more of the complaints that we should have taken before.

Comm. Norris stated right. One of the issues was.....

Exec. Dir. McDonald stated that they have been up all year. Even that aside....

Comm. Norris stated that one of the issues was that if someone came and made a complaint and whoever took the complaint; whether in our office or the precinct if they felt like they resolved it right there, we did not log it or track it. We just said they were taken care of.

Exec. Dir. McDonald stated right and we are now counting those.

Comm. Norris stated that is something that the Department of Justice said no, you need to log those and make sure they are in fact resolved, and the people are in fact satisfied. So there have been some changes in procedures both at the precincts and at our office in terms of how that is handled.

Exec. Dir. McDonald answered yes.

DC Gary Brown stated that there are complaints taken every day on use of force issues that are not entered into the official OCI complaint system that are taken in at the Professional Accountability Bureau everyday there are complaints taken.

Comm. Blackwell asked that do not show up here?

DC Gary Brown answered yes and they are thoroughly investigated.

5. CHIEF'S REPORT

DETROIT POLICE DEPARTMENT MIND'N OUR BUSINESS

Board of Police Commissioners

It is the Detroit Police Department's mission to provide a safe environment through effective, efficient and community based service. Therefore, the following enforcement actions were conducted during the week of December 22- 31, 2002:

ORGANIZED CRIME & GANGS DIVISION

The Conspiracy Intelligence, South-East, Gang Enforcement and Vice Sections conducted nine (4) enforcement actions that resulted in (3) felony and (7) misdemeanor arrests. These enforcement actions reflected in the confiscation of 136.1 grams of cocaine, 47.9 grams of heroin, and 641 grams of marijuana with a street value of \$143,224.00. Four hundred and ninety-eight (\$498.00) dollars in U.S. currency and (52) miscellaneous ordinances were also issued.

TENTH PRECINCT

On December 28, 2002, officers of the 10th Precinct received a police run to the 5500 block of Linsdale on "Suicide in Progress." The officers observed the subject with a knife to his chest threatening to kill himself. The officers

working with a supervisor from the 10th Precinct convinced the subject to drop the knife. He was conveyed to Detroit Receiving Hospital Crisis Center without further incident.

THIRTEENTH PRECINCT

On December 25, 2002, officers of the 13th Precinct received a police run to a location in the 3400 block of Second, on "One Down, EMS Ordered." The officers talked to EMS and it was determined that the female complainant died of unnatural causes. The officers observed blood on the floor and drag marks leading from an apartment. As a result of their investigation, one subject was arrested for "Murder" and they are seeking a second subject for "Accessory After the Fact."

Additionally, on December 25, 2002, officers of the 13th Precinct received a police run to 100 block of Piquette on a "Breaking & Entering Alarm." Due to the officers' quick response and investigation, one subject was arrested for "Breaking & Entering."

Chief of Police Jerry A. Oliver, Sr.

6. OTHER BUSINESS

Comm. Vann stated that he had something.....

Chief Oliver stated he was sorry, he asked Exec. Dir. McDonald that he thought there were a couple of other cases to be heard.

Comm. Norris stated yes and we are going to get those after other business. We have not forgotten them, don't worry.

Chief Oliver apologized.

Comm. Vann stated that he was concerned and wanted this on the record that there was a young man in his congregation who it appears his case may have been mishandled as it relates to offer to engage. He is hearing more and more complaints. He did not want to go into the specifics of that. We did have it investigated but I am hearing more and more complaints from citizens who say that they are actually being harassed in terms of offer to engage. He is wondering if that is an issue, is it something being addressed, are you seeing a trend of that?

Chief Oliver asked Comm. Vann when you say harassed, what do you mean?

Comm. Vann answered there are some people being arrested under questionable circumstances. It appears this is what we are hearing a lot of in the offer to engage program. Some of the people are..... there are some lines of discretion that are being violated and crossed with regards to how these different scenarios are brought together.

Chief Oliver stated if he could make a suggestion to Comm. Norris that this might be one of those presentations that they had talked about earlier that I think would probably benefit all of us to go step by step as to what the OTE program does; how do we go about doing that, the safeguards that are in that program. I think you would be interested in knowing.

Comm. Norris stated that would be good.

Chief Oliver stated that we would like to reserve the right to have a presentation on that.

Comm. Norris stated just so that the rest of the Commissioners know, the Chief and I met probably a week and a half ago, to talk about presentations from the Department for the upcoming year. We identified some topics that clearly fall under the Board's jurisdiction that would need to be brought to us, and that we would have presentations on and then came up with some other topics that are more FYI things and we are in the process of putting it together. That sounds like a good one to add. Just so that you know Chief, because this predates you a little bit, when you do that presentation, we will have some budget questions.

Chief Oliver stated I'm sure. The action predates me but the issue I am very much aware of.

Comm. Vann addressed Chief Oliver and asked if it is found that there are questionable circumstances by which an officer has arrested an individual, but they paid \$950.00 to get their car out; do we have a policy which reimburses the \$950.00 to the person?

Chief Oliver stated that he did not have an answer to that question. Maybe someone else on the staff could answer that.

Lt. Blackmon from Vice stated that issue is operated by the Prosecutor's office. Basically, when we turn those vehicles over, the Prosecutor's office handles that particular issue.

Comm. Vann stated that what he is saying is..... okay....

Lt. Blackmon stated should there be a procedure?

Comm. Vann stated right.

Comm. Norris stated right. That is in our question because you could be totally cleared of all of the charges and absolutely exonerated and still be out of your \$ 950.00. Her understanding is that the Department, before it gets turned over to the Prosecutor, the department sometimes waives what she calls the ticket fee. But the towing company does not waive the towing and storage fee. She does not remember exactly how much of the \$950.00....

Lt. Blackmon stated that there are two separate issues. There is a criminal issue and a civil issue. The department handles only the criminal issue and then the Prosecutor's office handles the forfeiture issue of the vehicle.

Comm. Vann asked how do the people get their money back? That is the important thing.

Comm. Norris stated she thinks that is something we have to talk about some other time. The answer right now is that we don't know.

Comm. Vann stated that is the real issue that I hear buzzing. That is that people feel unjustly treated if there is a question or if this is in the hands of the Prosecutor. For example, these people are trying to get to work everyday or whatever it may be and \$950.00 of their money, they have to have their car to go to work. It has been taken and held and both sides say the Prosecutor says go to the police. The police say go to the Prosecutor.

Lt. Blackmon stated that basically what happens is once their car has been forfeited, we have to get approval from the Prosecutor's office to release the vehicle.

Comm. Norris stated that even if the vehicle is released, I think the concern is that the vehicle gets released but the towing company is still going to get paid. That money gets paid by the person whose car it was if they want the car back. But that person did nothing wrong and if that car was improperly impounded, there is no penalty to the department for throwing a bunch of cars in the lot; but there is a lot of penalty to the people involved.

Lt. Blackmon answered yes ma'am.

Comm. Vann stated that all of these people are held harmless but then the victim is penalized.

Lt. Blackmon stated yes and I think that as the Chief stated the presentation will probably show more of the safeguards in that area, hopefully we will be able to ...

Chief Oliver stated to Comm. Vann if you like, we can talk about how we go about doing that. If it is a problem with that, then that is something we need to address. I don't know the answer to the question but certainly there will be someone/several issues to explore when we present. Comm. Norris if you like, we would like to have a fairly quick turn around on this particular presentation.

Comm. Norris stated in two weeks.

Chief Oliver asked in two weeks?

Comm. Norris stated in two weeks. Does that sound okay or does that work? We have a community meeting next week and I don't want to do this at the community meeting.

Comm. Blackwell asked why not?

Comm. Norris answered because those meetings.....

Chief Oliver stated we want to get done that night.

Comm. Norris stated that those meetings are not the best meetings.....

Comm. Blackwell stated but those are the people being impacted. He thinks our job is to not run away from stuff but to run to stuff. He feels that issue we have had Duggan on the radio many times because people have reiterated what Comm. Vann has said so you know that part of the money that is used. The \$950.00 is used for Prosecutor's raises.

Comm. Norris stated true.

Comm. Blackwell stated that the money was tied to that. This is kind of like some motivation going on as well. He thinks there should be a clear and cut policy for people who are not guilty of the crime and they get a refund of whatever monies that were expended and that may be something that has to through the county commission, which is the only body that can set fees. The Prosecutor cannot set the fees; they can only collect them once the ordinance is passed. The other issue is what we hear a lot was people's cars were being impounded that belonged to their

mother or father, uncle or aunt, in that case, it is not much you can do because if the person was found guilty of any activity, the car was used in the commission of that particular offense. He thinks that it would be helpful as he addressed Chief Oliver in addition to the Chief bring the individual who would be handling that for Duggan to explain the other side.

Comm. Norris stated to answer both sides of the questions.

Comm. Blackwell stated that when Duggan came on the radio, he was pretty thorough about it. Because one of the concerns was it seemed to be more targeted towards Detroit. The information we received was that over 50% of the johns were from outside of the city. It gave a little more balance on who was being targeted, but the other side of the issue was is that people in those particular neighborhoods were applauding the fact that those streets were a little cleaner. It is a very complex issue and not well known. He thinks that the Chief was right. If he and the Prosecutor could present that, he felt being in the community would be the rightMaybe not next week but maybe in a month or so. If it is presented right, he feels it would be a good meeting. He felt it would be informative.

Comm. Vann stated in addition to that, the contract that the department has with the towing people, it would be good to be able to reference just what agreement the city has with them because in many instances, they are the ones who want to make sure that they get all of these impounding and towing in. They don't want to relinquish the money for any purpose after they have done the work.

Chief Oliver addressed Comm. Norris and Comm. Vann by stating that the towing issue is a whole different presentation...

Comm. Vann stated that he knows because there are some other issues on towing.

Chief Oliver stated yes. We are receiving these issues to bring forward to the Board. The towing issue I feel that we need to spend a little time with.

Comm. Vann stated that he was personally aware of that.

Comm. Blackwell asked Comm. Vann if he got his money back?

Comm. Vann responded no.

Chief Oliver stated to Comm. Norris that it is his understanding that we will make this presentation at the next community meeting.

Comm. Norris stated if the next community meeting is next Tuesday, so if that is too soon, maybe Thursday or the following Thursday.

Chief Oliver stated not this one but the next community meeting.

Exec. Dir. McDonald stated February.

Comm. Blackwell stated it should give time to put it together properly and lets pick a place. We already know where we are going at the community meeting?

Comm. Norris stated yes we do. We are going to the Third Precinct.

Comm. Blackwell asked not a month from this.....

Comm. Norris stated it will be February 13.

Comm. Blackwell stated okay.

Comm. Norris stated that the Board had two suspensions that were read a week ago Monday but because it was just before the holiday, representatives were not available to argue. They agreed to refer oral arguments until today. We are not going to reread the suspensions into the record but she would call first on the suspension without pay of **Police Officer Michael Allen, Badge 1401**.

DPOA Atty. Thomas Zulch stated that you can reference his entire prior argument other than the facts contained in your letter. He had noother information to bring forth to the Board. He stated that they were really not here on the facts. It is a situation where possibly we have a younger officer who may have some issues that need to be dealt with through Personal Affairs again. He feels that is where it should be brought and not a suspension without pay.

Comm. Blackwell asked this gentleman did this on duty?

DPOA Atty. Thomas Zulch stated no. Police Officer Michael Allen was contempt of court citation. He was on probation for impaired driving and apparently he failed to comply with some aspects of that probation. As to what those were, he did not have that information and he was found in contempt of court for failing to appear for a show cause hearing.

Comm. Blackwell stated to Comm. Norris on this issue this is an issue where he was under a program and failed to follow the order of the court.

Comm. Norris stated right.

Comm. Blackwell stated that he was actually cited by the court and not by the police department. Correct?

Comm. Norris stated that is correct.

Comm. Blackwell stated to me that is a lot different. Because then somebody who has entered into some kind of agreement goes through a program. He believed at the time he went through this, he was not suspended from the police department.

Comm. Norris stated that is correct. It doesn't say what discipline....

Comm. Blackwell stated that this person was given an opportunity of a clear understanding of what the program was. He feels that it is so important to really deal with the rules and the procedures because each of these rules, to him this is a clear cut case than the other ones. On this case, he is not as opposed to it because Judge Humphries found him in contempt.

Comm. Norris stated right.

Comm. Blackwell stated a different issue for me.

Comm. Vann stated the issue of the driver's license. Being suspended whether or not he is being able to actually perform duties under the suspended license.

Atty. Nancy Ninowski stated that we are not here today to go over the operating the motor vehicle under the influence of intoxicating liquor violation that Officer Allen received. As a result of that violation, however, he was placed on probation by Judge Humphries. He was fined court costs in the amount of \$850.00 and his driver's license was suspended for a period of 90 days. He was ordered to receive substance abuse treatment as part of his reporting probation. Officer Allen failed to appear for his probation appointments. He failed to abide by a court order.

Comm. Blackwell asked Atty. Ninowski if she said plural appointments?

Atty. Nancy Ninowski stated appointments, yes. Her understanding from the facts is that the appointments were scheduled from September 6, 2002 up to and including October 18, 2002. He failed to appear during that time frame. She could not tell the Board exactly how many appointments there were.

Comm. Blackwell asked did he ever appear?

Atty. Nancy Ninowski stated no, he did not appear. What happened was he failed to appear for his reporting probation. The court set a court date for show cause hearing to show cause why you shall not be held in contempt of court for failing to appear for your probation.

Comm. Blackwell asked he did not go to that either?

Atty. Nancy Ninowski stated he did not appear for that. So the judge issued a bench warrant for Officer Allen. Officer Allen was subsequently picked up on that bench warrant and lodged at the Eighth Precinct. He could not post bond so he stayed at the Eighth Precinct overnight. He was picked up on Saturday and he stayed until Monday when he was arraigned. His bond was reduced to \$2500 cash or 10%. where upon he was able to post \$250.00 and released. Certainly the department's position is that this conflicts with his role as a police officer. It is continuing conduct. Here you have an officer and you are trying to get him help. You are trying to put him into treatment and he is ignoring everything the court is trying to do. If that does not conflict with the role of a police officer; if that doesn't undermine the public's confidence in us as a department, she does not know what other examples that she could present to the Board.

Comm. Blackwell stated there are none.

Atty. Nancy Ninowski stated thank you.

Unless contravened by this Commission, the above suspension without pay will stand.

There were no contraventions to the above suspension without pay.

Suspension without pay for Police Officer Tony Cotton, Badge 26

DPOA Atty. Thomas Zulch stated that his prior arguments essentially stand. He stated that he is not going to argue any of the facts of this case.

Comm. Norris asked are there any questions regarding the Officer Cotton case?

Comm. Vann asked if DPOA Atty. Zulch had anything good to say for him?

DPOA Atty. Thomas Zulch stated that it was his understanding that the officer had no prior discipline.

Comm. Vann answered okay.

Comm. Norris stated that is good to know.

Comm. Norris stated that she would not ask what has been done in prior situations with this kind of conduct because she imagined that we don't have a lot.

Atty. Nancy Ninowski answered thank you. I appreciate that and I don't know where to begin. Certainly, you can agree that the city has an obligation to act quickly in a circumstance such as this, and that the Chief especially has an obligation to maintain order within the department for the good of the department. She feels that justifies the suspension without pay in this set of circumstances, let alone looking at what happened to the workplace and the job performance in the Eighth Precinct. The invasion of privacy of that female officer and the ethical violations that occurred. The list is endless and it makes her wonder if this happened at the workplace, what is happening on the streets. The department's position is of course is that this officer should be suspended without pay. His duty status should be suspended without pay based on the conduct involved.

Comm. Norris stated just so it is clear if the officer did what he is accused of doing, that would be a violation of the department's sexual harassment policy.

Atty. Nancy Ninowski stated yes, it would be.

Comm. Norris stated she believes that the policy says violation of that policy could lead to discipline up to and including termination.

Atty. Nancy Ninowski stated yes it does.

Comm. Vann asked do these individuals know each other?

Atty. Nancy Ninowski stated that her understanding is that they don't have any kind of relationship. They do know one another but there is no dating relationship, friendship, or anything of that nature.

Comm. Blackwell asked are there any witnesses?

Atty. Nancy Ninowski answered no, sir.

Comm. Blackwell asked if he denied it?

Comm. Norris stated that they know that he was in the room because he has a print. What went on in the room, they do not know.

Comm. Blackwell stated that obviously this is an allegation. Did he say that this never happened?

Atty. Nancy Ninowski stated that her understanding is that he never did deny that it had happened.

Comm. Blackwell asked he never denied it?

Atty. Nancy Ninowski answered no.

Unless contravened by this Commission, the above suspension without pay will stand.

There were no contraventions to the above suspension without pay.

7. ORAL COMMUNICATIONS FROM THE AUDIENCE

Ms. Walters voiced her concerns about officers drinking while on duty and off duty. She stressed this is something that should be done in the home and not be going back on the streets. She states that the commission needs to take a strong stand and make it clear what will be acceptable and what is not acceptable. She stated that she was unhappy with Atty. Thomas Zulch defending officers charged with driving while drunk.

Comm. Norris stated that we like Atty. Zulch and we know he is just doing his job. It is not personal with Atty. Zulch and we appreciate that.

Comm. Blackwell stated no it is not personal, it is horrid.

8 ANNOUNCEMENT OF NEXT MEETING

Thursday, January 9, 2003 @ 6:30 p.m.
New Whitestone Baptist Church
13323 Fenkell @ Littlefield
Detroit, MI 48227

9. ADJOURNMENT

Meeting was adjourned at 4:05 p.m.

Respectfully Submitted,

PAMOLINE J. MCDONALD
Executive Director
Board of Police Commissioners

PJM/fyh